

FILED WITH LRC

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REGULATIONS COMPILER

NOTICE OF INTENT TO
PROMULGATE ADMINISTRATIVE REGULATION

Date: May 8, 2002

The Kentucky Public Service Commission

(1) **Regulation Number and Title:** 807 KAR 5:063. Filing requirements and procedures for proposals to construct antenna towers for cellular telecommunications services or personal communications services

(2) The Kentucky Public Service Commission intends to amend the administrative regulation governing the subject matter cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation is scheduled for June 24, 2002 at 11:00 a.m., Eastern Daylight Time, in Hearing Room 1, 211 Sower Boulevard, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to June 24, 2002, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Deborah T. Eversole, General Counsel, Kentucky Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40602, telephone (502) 564-3940; facsimile (501) 564-7279.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing." ; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Public Service Commission at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of the administrative regulation is HB 270, to be codified in KRS Chapter 100 and KRS Chapter 278. HB 270 repeals numerous provisions of law pursuant to which 807 KAR 5:063 was previously promulgated. This amendment will bring 807 KAR 5:063 into conformity with existing law.

(b) The proposed amendment may be summarized as follows: The provisions of the regulation whose statutory authority has been repealed will be deleted; provisions for notifying the Commission of planning commission approval of a tower site will be added; provisions concerning local public hearings will be added.

(c) The benefits expected of this administrative regulation are that it will fully implement new statutory requirements and procedures for antenna tower siting.

(d) The Necessity and Function of the proposed administrative regulation is as follows: HB 270, which contains an emergency clause and is thus currently effective, deletes statutory provisions mandating Commission proceedings on applications concerning cellular antenna towers proposed to be located in areas under the jurisdiction of a planning commission. HB 270 also provides for two additional local procedures: public hearings and notices to the PSC concerning planning commission approvals. This administrative regulation is necessary to implement the changes to the law governing cellular antenna tower proceedings.

(e) The proposed amendment will eliminate provisions of the administrative regulation that are now obsolete and will provide procedures to implement new statutory requirements.

(f) The administrative regulation will be implemented and enforced as soon as it becomes effective.